

FILED**SEP 10 2004****CHARLES J. WALSH
J.S.C.**

IN RE: DIET DRUG LITIGATION
VENUED IN BERGEN COUNTY

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY
DOCKET NO. BER-L-7718-03 MT
CASE CODE 240

APPLICABLE TO ALL CASES

**CONSENT ORDER SUPPLEMENTING
CASE MANAGEMENT ORDER NO. 4**

THIS MATTER having been opened to the Court by counsel for plaintiffs and the Wyeth defendants, and the Wyeth defendants having requested that this Order be entered to supplement Paragraphs 21 and 22 of Case Management Order No. 4 (CMO 4) entered April 27, 2004, and counsel for plaintiffs and the Wyeth defendants having agreed to the form and entry of this Order, and good cause having been shown,

IT IS on this 10th day of September, 2004, ORDERED AS FOLLOWS:

NON-PARTY FACT WITNESS DEPOSITIONS

1. The Order entitled Consent Order Supplementing Case Management Order No. 4, entered by this court and filed on August 30, 2004 in the above referenced litigation, is hereby vacated. The instant Order will supercede that prior Order in all respects.

2. At least 15 days prior to the proposed deposition date of a non-party fact witness to be scheduled by counsel for the Wyeth defendants ("Wyeth"), Wyeth shall post on Verilaw a Non-Party

Fact Witness Deposition Schedule for the correct discovery Group providing at least one proposed date for that deposition. The deposition schedule shall identify the proposed deponent, the full name of the plaintiff whose case the deposition concerns and be grouped by the name of the firm listed on the Plaintiffs' Fact Sheet or Authorization. Opposing counsel shall serve on Verilaw any objections to proposed non-party fact witness deposition dates within five business days of the posting of the Non-Party Fact Witness Deposition Schedule setting forth those proposed dates. Such opposing counsel objections shall include at least three alternative proposed deposition dates that are not later than 21 days after the latest date proposed by Wyeth. Any unresolved objections shall be heard at the next biweekly discovery hearing held by the Court.

3. Failure to check Verilaw shall not be considered a valid basis for an objection nor an excuse for failure to timely object to a deposition date.

4. Five business days after posting on Verilaw a Non-Party Fact Witness Deposition Schedule identifying a proposed non-party fact witness deposition date, Wyeth shall post a Non-Party Fact Witness Deposition Schedule identifying that date as final where no objection is timely made by opposing counsel. Where Wyeth has proposed more than one date for a non-party fact witness deposition, Wyeth may choose any of those proposed dates not timely objected to by opposing counsel. This Non-Party Fact Witness Deposition Schedule may also identify proposed dates for any additional non-party fact witness depositions. The schedule shall identify all depositions as required by paragraph 2 of this Order. Any additional non-party fact witness deposition dates shall be proposed at least 15 days prior to the proposed deposition date as required by paragraph 2 of this Order. Opposing counsel may object to the proposed dates within five business days pursuant to the procedure

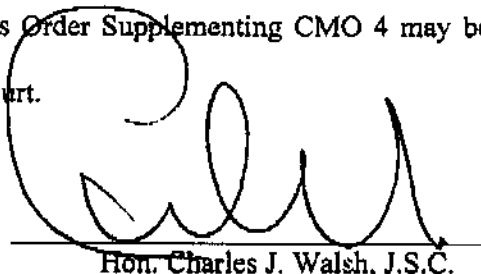
stated in paragraph 2 of this order. The Non-Party Fact Witness Deposition Schedule shall have the effect of a duly noticed deposition notice for all such final dates.

5. If the witness is not available on a final date or agreeable date proposed by counsel, the parties shall hold the deposition on the earliest date on which the witness is available and that has not ^{PS} ~~but no earlier than 7 days from the latest day proposed by either counsel or~~ been previously objected to, ~~if~~ ^{WMB} if the witness is uncooperative, the deposition shall be held on the earliest date agreed to by all counsel.

6. In addition to posting on Verilaw the Non-Party Fact Witness Deposition Schedule, Wyeth shall provide proper notice, whether by subpoena *duces tecum* or other means, to the non-party fact witness to be deposed.

7. In the event counsel agree to schedule a non-party fact witness deposition on a given date and confirm such agreement in writing prior to posting a proposed date on a Non-Party Fact Witness Deposition Schedule pursuant to this Order, the date shall be posted as a final date.

8. A deposition scheduled pursuant to this Order Supplementing CMO 4 may be adjourned only by agreement of counsel or approval of the Court.



Hon. Charles J. Walsh, J.S.C.